counted it with the plaintiff. *Held,* Watts and Gage JJ. dissenting, that the maker had exhausted his implied authority after inserting one name; that the instrument thereby became complete by relation back to the time of delivery; and that the additional words were a material alteration under the Negotiable Instruments Law, rendering the endorser not liable. *First National Bank of Hartsville* v. *Wood,* (S. C., 1918), 95 S. E. 140.

According to the Negotiable Instruments Law, S. C. Law, 1914, p. 670, the holder has *prima facie* authority to complete an instrument wanting in any material particular, by filling up the blanks therein, but in order to enforce it, once completed, against any party thereto, prior to said completion, it must be filled up strictly in accordance with the authority given. Another section provides that a material alteration, without the assent of all parties liable thereon, avoids the instrument. The dissent in the principal case insists that so long as the maker retained the note he had this implied authority to fill it up sufficiently to negotiate it as both parties intended, and a lapse of time between the two insertions could not affect this authority. When a party puts his own name on a piece of paper to indicate that the instrument is to be a promissory note, or when he signs or endorses it in blank, not filled up, a subsequent payee or endorser may recover, and it is no defense that the deliveree exceeded his authority, *Johnston Harvester Co.* v. *McLean,* 57 Wis. 258. A maker is liable if he intended that his agent should negotiate the note, even if the agent went beyond his authority in filling the blanks. *Ray* v. *Willson,* 45 Can. S. C. 401. There is a distinction between altering a note once filled up, and filling it up if signed in blank. And an instrument is payable to bearer if the only or the last endorsement is in blank, N. I. L. § 9. The addition of the words "or bearer" is not an alteration when they were intended to have been inserted, See DANIEL ON NEGOTIABLE INSTRUMENTS, § 1395, quoting, *inter alios, Kershaw* v. *Cox,* 3 Esp. 246; *Weaver* v. *Bromley,* 65 Mich. 212. In the latter case the material alteration claimed was the insertion of the words "or bearer" and it was *held* that such a change was not a material alteration, and would not avoid the liability of the endorser. Where the effect of such an addition is to impart negotiability to an instrument not intended to be negotiable, the alteration is material and the bill or note avoided. *Haley* v. *Vandiver,* 8 Ga. App. 78, *Winter* v. *Pool,* 100 Ala. 503. In the instant case, however, the defendant's claim, that the alteration destroyed the negotiability of the note, admits that negotiability was originally intended by both parties. In that case the insertion of the payee's name without words of negotiability, could not exhaust the implied authority, since an instrument to be negotiable must be payable to order or bearer, N. I. L. § 1, 4. For this reason it is difficult to see how the doctrine of relation back to delivery, can apply, since the instrument would still fall short of its intended effect, until the second addition.

CARRIERS—FREIGHT RATES—OWNERSHIP NOT BASIS OF RATES.—A carload of broom corn was shipped from Elk City, Ok., to Wichita, Kansas, by S who was both consignor and consignee. On arrival at Wichita, by

virtue of a replevin suit, it developed that S was not owner of all the broom corn. The railroad then claimed the right to charge less-than-carload rates. *Held,* that the carrier has no right to make the ownership of the goods the test by which freight charges were to be determined. *St. Louis & S. F. R. Co.* v. *First Nat. Bank of Elk City et al.,* (Okla. 1918) 171 Pac. 467.

The early decisions are to the effect that the carrier need not give the same carload rate to forwarding companies who collected parcels from many shippers to make a carload with the intention of getting the lower rate, *Lundquist* v. *Grand Trunk Western R. Co.,* 121 Fed. 915; *Johnson* v. *Dominion Ex. Co.,* 28 Ont. 203. See also *D. R. Martin,* 11 Blatch (U. S.) 233 and *Barney* v. *Oyster Bay & H. S. Co.,* 67 N. Y. 301, to the effect that a passenger cannot use the facilities of the carrier to further his own interests. The reasoning of these cases is to the effect that a common carrier does not hold itself out to carry for a competitor. This doctrine was modified in *Buckeye Buggy Co.* v. *Cleveland, C. C. & St. L. Ry.,* 9 I. C. C. Rep. 620 where it was decided that if the consignee is the owner of the goods then he would be entitled to the carload rates although the car load was made up of shipments from various vendors. And, finally, in *Int. Com. Com.* v. *Delaware, L. & W. R. R.,* 220 U. S. 235, the older decisions were overruled, the supreme court holding that the carrier could not discriminate in fixing charges because of ownership of goods tendered for transportation. It was this decision which bound the court in the instant case. And the decision is in accord with the English cases interpreting an act from which the United States act was taken, *Tex. & Pac. Ry.* v. *Int. Com. Com.,* 162 U. S. 197, 222; *Great Western R. Co.* v. *Sutton,* (1869) L. R. 4 H. L. 226. And the rule of *Int. Com. Com.* v. *Delaware, L. & W. R. R.* (*supra*), that railroads cannot discriminate on account of title, has been applied both ways, so that a shipper is bound by a limitation which the forwarding agent may make and must look to the forwarding agent if instructions are not obeyed, *Great N. Ry. Co.* v. *O'Connor,* 232 U. S. 508.

CONSTITUTIONAL LAW — ATTORNEY FEES — EQUAL PROTECTION OF THE LAW.—The revised code of Montana allows an attorney fee of a reasonable amount, as fixed by the court, to the successful plaintiff, who sues a railroad for cattle killed, either on the ground of absolute liability, because of failure to construct or maintain fences or cattle guards, or because of the negligent operation of trains. The plaintiff herein appealed from a judgment in his favor and sought to have reviewed an order of the trial court striking from his cost bill an item of fifty (50) dollars as an attorney fee. *Held,* the above section allowing attorney fees to the successful plaintiff is unconstitutional as denying the equal protection of the laws. *Dewell* v. *Northern Pac. Ry. Co.* (Mont. 1918), 170 Pac. 753.

The court *held* that, since the above provision as to attorney fees applies as well to an action brought for damages for animals killed by the negligent operation of trains as to an action brought for damages arising from a failure to build or maintain fences or cattle guards, it was uncon-